

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA

v.

DAVID MINER

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Case No. 3:11-CR-25
PHILLIPS/SHIRLEY

**MOTION TO DISMISS FOR VIOLATION OF THE FIFTH
AMENDMENT DUE PROCESS CLAUSE**

Comes the defendant, David Miner, and moves this Honorable Court for an Order dismissing the indictment in this case based on a violation of his Fifth Amendment right under the United States Constitution to Due Process of Law.

Mr. Miner was arrested in Florida on an indictment that had never been returned by a grand jury. He came to Tennessee based on this illegal indictment. He was presented in Court with two additional indictments that had not been presented to a grand jury. Finally a fourth indictment was presented which pretends to be a proper indictment. This whole process is flawed by illegal indictments, an arrest on an illegal indictment, and appearances in court based on indictments which had not been presented to the grand jury. All of this adds up to a total violation of Mr. Miner's Fifth Amendment right to due process of law. The only proper remedy is to dismiss whichever indictment the Court feels is the proper indictment.

Respectfully submitted this the 8th day of August, 2011.

FEDERAL DEFENDER SERVICES OF
EASTERN TENNESSEE, INC.

By: s/Kim A. Tollison
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CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2011, a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the court's electronic filing system.

s/Kim A. Tollison
Kim A. Tollison